

attention on self-preservation he overlooks the complementary and almost equally powerful instinct of mutual aid.

With the fading of his dream of primitive society the case for the crushing yoke of Leviathan falls to the ground. But

even assuming the necessity of escaping from an unbearable

situation, he fails to prove that the only course was the unconditional surrender of natural rights. In his famous treatise

De ^Ege the Spanish Jesuit Mariana, who anticipated him in his description of the state of nature and traced civil society

to the failings of mankind, declared that the community

reserved more power than it ceded. Hooker again, who

maintained that the compact was between the members of a

group, not between ruler and subjects, declined to draw the

inference that they had beggared themselves. Althusius wrote

his celebrated *folitica metbodice Digesta* to prove, not only that

sovereignty belongs wholly to the people, but that they could

not renounce their sovereign rights even if they wished.

Hobbes's argument that no collective action was possible is

destroyed by Jiis own version of events. The resolve to

escape from a state of nature was a collective volition, and the

transference of rights to the sovereign was a collective action.

The contention that man, even primitive man, surrendered

his rightf without a shadow of covenanted security is an affront

to common sense. If men were intelligent enough to contract

out of their ^rights towards one another, why could they not

give general directions to the ruler of their choice ? Hobbes

would have agreed with the saying of Selden, "A King is a

thing menhave made for their own sakes,for quietness* sake";

but the great Whig jurist drew the sensible conclusion that he

must be the servant, not the despot, of his people. In this

form the doctrine of the original contract, though a legal fiction, found favour for many centuries, precisely because it proclaimed the inalienable sovereignty of the people and government by consent. As subjects owed a reasonable obedience to the ruler, so the ruler owed a reasonably good government to his subjects, who retained the right to see that he carried out his task. In Gierke's phrase, Hobbes stifled the social contract at its birth. No unconditional and irrevocable surrender of natural rights could occur, for men would not be such fools. Certain useless rights were surrendered in order to guarantee the rest. Moreover, how could one generation bind its successors for ever ? The same demand for a better life which led to the selection of a ruler carried